Supreme Court, U.S.
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NO. _____

IN THE
SUPREME COURT OF THE
UNITED STATES

OCTOBER TERM, 1992

NICK RETSOS,

PETITIONER

vs.

HERBERT H. VICTOR,

RESPONDENT

PETITION FOR WRIT OF CERTIORARI
TO THE APPELLATE COURT OF ILLINOIS
FIRST DISTRICT, SECOND DIVISION

PETITION FOR WRIT OF CERTIORARI

NICK RETSOS,
PETITIONER, Pro se
5250 W. PATTERSON
CHICAGO, IL 60641
(312) 907-4350

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SUPREME COURT OF THE
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QUESTIONS PRESENTED

1. Can an attorney at law keep a client's fee without performing the legal services?

2. Is it a fair trial and due process when a Defendant attorney is acquitted on the basis of being a colleague of the presiding trial Judge?

3. Shall a Court of Appeals disregard the facts and the evidence on record and resolve a case against the Appellant on the basis of lack of procedural information denied to him in the trial Court?

PARTIES

The parties to the proceedings in the Court whose judgment is sought are as follows:

NICK RETSOS

&

HERBERT H. VICTOR

STATE OF ILLINOIS

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I N T H E

S U P R E M E C O U R T O F

T H E U N I T E D S T A T E S

OCTOBER TERM, 1992

NICK RETSOS, PETITIONER

Vs.

HERBERT H. VICTOR, RESPONDENT.

PETITION FOR WRIT OF CERTIORARI TO THE APPELLATE COURT OF ILLINOIS, FIRST DISTRICT, SECOND DIVISION

JURISDICTIONAL STATEMENT

Petitioner, Nick Retsos, respectfully prays that a writ of

certiorari issue to review the judgment of the Appellate Court of Illinois, First District, Second Division, which affirmed the ruling of the Cook County Circuit Court on June 3, 1991. The affirmation of the Circuit Court ruling is contrary to the facts and evidence on record, and contrary to the Illinois Statutes, and to the legal precedent set forth by the Illinois Appellate Court, Third District; the Illinois Supreme Court, and the United States Supreme Court.

A Petition for Leave to Appeal to the Illinois Supreme Court has been denied on November 5, 1992. This Petition is timely filed pursuant to Rule 20, S.Ct.R., within 90 days

after the denial by the Illinois Supreme Court.

This Court's jurisdiction is invoked under Title 28, U.S.C., section 1257 (3).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

Amendment 14th of the United States Constitution is set forth in Appendix A-10)

STATEMENT OF THE CASE

Petitioner, Nick Retsos, hired Respondent on November 11, 1989, as legal counsel to obtain visitation

and custody of minor child for a flat fee of $ 1500. Respondent demanded all fee in advance. The parties explicitly agreed that a Court Injunction to prevent the mother of Mexican descent from escaping to Mexico with the child, and visitation for Petitioner shall be the high priorities of the case.

Respondent failed to file both motions, but he filed a skimpy complaint for custody, appeared in court first time for a continuance, and signed in and disappeared the second time before the hearing. Respondent avoided conduct with the Petitioner until his dismissal. Substitute attorney, Anthony Kostogiannes, completed the filing

and represented Petitioner in Court for additional charges to the Petitioner. Respondent refused to provide Petitioner with refund.

Petitioner filed complaint with the Attorney Registration and Disciplinary Commission of the Illinois Supreme Court. Respondent answered the inquiry and admitted that Petitioner **"is entitled"** to a refund, but not the entire fee. The Commission classified the case as "a fee dispute" and closed the case suggesting arbitration. Whereupon the Respondent submitted to the Commission a fake report of supposed work and did not issue a refund.

Petitioner filed complaint in the Circuit Court of the Cook County of Illinois requesting a refund of 2/3 of the fee. The case was assigned for trial to the Honorable Judge Wayne D. Rhine on June 3, 1991. Before case was called for trial, Respondent left the courtroom and - without filing a motion for Judge Substitution- arranged with judicial officials to transfer the case to a Traffic Court Judge, the Honorable Robert R. Retke, for deliberation. Judge Retke dismissed the case without a finding, saying that "he used to be a lawyer and had done what the Defendant was accused of."

Petitioner presented motion asking trial judge to issue opinion on the finding and reasons of dismissal. Judge promised to issue finding, but he did not.

Petitioner filed appeal with the Illinois Appellate Court, on September 27, 1991, citing irregularities in the assignment of the judge; the ruling that could not be sustained by the facts, false pleadings and fake reports by the Respondent on the record,and the legal precedents set forth in all similar cases by the 3rd Division of the Appellate Court that has ruled in all cases that Plaintiffs have the right to recover their legal fee when the

services are not performed by attorneys. But this case was assigned to the 2nd Division of the First District that sustained the trial Court's ruling citing lack of transcripts from the trial Court.

The Appellate Court claims to base its decision "on Plaintiff's Brief" only (P. A-4, lines 4-5). But evidence of fraud, perjury, and fake reports by the Defendant were not taken into consideration. The Court's decision was based solely on the missing part that the trial Judge promised but not provided.

Petitioner filed Leave to Appeal with the Illinois Supreme Court on July 17, 1992, citing the law, the precedent and the evidence on record, and argued that the

assignment in both the trial Court and the Appellate Division has been a departure from the standard procedure that was prejudicial to the Petitioner in that produced biased legal rulings that were not sustainable by the facts and the evidence on record. On November 5, 1992 the Supreme Court denied Petitioner's Leave to Appeal without any comment.

REASONS FOR GRANTING THE WRIT

Certiorari should be granted for three reasons:

1. Illinois Statutes, Chapter 38, 114-5 (b,c,d) mandates that

Substitution of Judge should be done on motion - with the adverse party being part of the process. The ability of the Respondent to transfer a civil case to a prefered judge who dismissed it on the basis of his background as a lawyer, and not on the law or the evidence on record, deprived the Petitioner of a fair trial. In U.S.-MICHIGAN, In re Murchison, 75 S. Ct. 632, U.S. 133, 99 L. Ed. 942, this Court has stated:

"A fair trial in a fair tribunal is a basic requirement of due process, and requires an absence of actual bias in trial cases."

The dismissal with prejudice by the trial Judge, and his denial to

issue a finding on motion by the Petitioner, and as required by the Illinois Statutes, Chapter 110, 3-111, 9 (c) that state:

" On motion of either party, the Circuit Court shall make findings of fact or state the prepositions of law upon which its judgment is based.",

further prejudiced the Petitioner on the Appellate process in that it intentionally deprived him of procedural information that essentially invalidated his Appeal.

2. The ruling of the 2nd Division of the Appellate Court was also prejudicial to Petitioner. The Illinois Statutes, Chapter 110A, Supreme Court 342, (d) states:

"Omission of any relevant portion of the record from the abstract shall not prejudice a party unless the reviewing court finds that there has been no good effort to comply with this rule."

If it is not overturned, the ruling will set a precedent that will in effect abolish the Appeal process for Small Claims Courts that always operate without Court Reporters in Cook County.

The assignment of trial Judge, and the assignment of the 2nd Appellate Division were a departure from the usual legal process that ended in biased and prejudicial verdicts against the Petitioner who was defrauded by the Respondent.

This Court has held in Baker v. Humphrey, 101, U.S. 494, 25 L.Ed. 1065 (U.S.-Mich. 1879) that:

" A breach of duty on the part of an attorney is "constructive fraud" and is sufficient, without actual fraud, to give the client a right to redress."

3. There is no right to redress against attorneys in Illinois. The lack of such right is causing widespread fraud by attorneys, and more than 6.000 complaints against them with the Attorney Registration and Disciplinary Commission every year. (APPENDIX A-7). The Commission, however, accepts fraud as a normal practice and classifies it "Fee Disputes."

And that is the majority of the 95% of the cases dismissed (Ibid). But the Chicago Bar Association admits "outright theft" by attorneys against their clients. (APPENDIX A-8, 9)

The bankruptcy of the Legal Victims Fund (APPENDIX A-8) due to widespread cheating by attorneys against their clients proves that the Commissions protects dishonest attorneys - not the public. In Ky.- Kentucky Bar Association v. Collins, 535 S.W. 2nd 95, 423 U.S. 1049, this Court sustained the view that:

"The public is entitled to rely on an attorney's admission to practice of law as a certification of attorney's honesty, high ethical standards and good moral character."

The admission to practice of law in Illinois has become a license to defraud the public, and has brought disrepute to the profession and to the administration of justice that condones it. This practice is causing undue pain and suffering to the Petitioner and to the thousands of other legal victims mentioned in the reports attached to this petition. This Court should intervene and exercise its supervisory authority to afford redress to every citizen against attorneys that use their legal skills and peers to defraud the public and come clean with clout. The legal laudering of money stolen

by attorneys in Illinois shall no be allowed to continue by This Court.

CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the decision of the Appellate Court of Illinois, First District, Second Division. The Petitioner's rights of Due Process, and Equal Protection of Law that have been denied should be affirmed by this Court.

Respectfully submitted,

Nick Retsos

NICK RETSOS, PETITIONER, Pro se

5250 W. PATTERSON

CHICAGO, IL 60641

(312) 907-4350

DATED: January 14, 1993.

Subscribed and sworn before me

this 15th Day of February 1993.

"OFFICIAL SEAL"
[illegible] Jeremis
Notary Public, State of Illinois
My Commission Expires 5/2/94

NOTARY PUBLIC OF ILLINOIS

NO._____

_____

IN THE
SUPREME COURT OF THE
UNITED STATES

OCTOBER TERM, 1992

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NICK RETSOS,

PETITIONER

vs.

HERBERT H. VICTOR,

RESPONDENT

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APPENDIX
TO
PETITION FOR WRIT OF CERTIORARI

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No. 1-91-2109

SECOND DIVISION, JUNE 16, 1992

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

Nick Retsos, Plaintiff-Appellant

vs.

Herbert H. Victor, Defendant, Appellee.

Appeal from Circuit Court of Cook County No. 91 M1 115511, The Honorable Robert R. Retke, Judge presiding.

ORDER

Plaintiff Nick Retsos retained Defendant Herbert Victor on November 11, 1989, to file a paternity action in the Circuit Court of Cook County. The complaint was filed on December 4, 1989.

IN THE CIRCUIT COURT OF COOK
COUNTY, ILLINOIS

Case No. 91 M1 115511

NICK RETSOS, Plaintiff

vs.

HERBERT H. VICTOR, Defendant

ORDER

This cause coming on trial before Judge Robert R. Retke, both parties appearing before the Court, Pro se, and the Court having heard the evidence and arguments of the parties:

It is hereby ordered that Judgment is entered for the Defendant and against the Plaintiff.

Entered, June 3, 1991

Robert R. Retke, 205
Circuit Court Judge

Plaintiff became dissatisfied with defendant's legal representation after two preliminary hearings and discharged defendant. Plaintiff also lodged a complaint with the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (the Commission). Plaintiff alleged that Defendant had provided ineffective assistance of counsel and that Defendant had refused to refund his attorney fees.

On December 20, 1990, the Commission held that "disagreement over trial strategies and the results obtained will not support a disciplinary prosecution." However, the Commission did not resolve the dispute on attorney fees. On February 22, 1991, Plaintiff filed suit against Defendant in the Circuit Court; the matter proceeded to trial and judgment entered in favor of the Defendant on June 3, 1991.

Defendant has failed to file a brief as appellee so this cause shall be taken for consideration on the record and Plaintiff-Appelant's brief only. First Capitol Mortgage Corp. v. Talandis Construction Corp. (1976), 63 Ill. 2nd 128, 345 N.E. 2nd 493.

An Appellant has the burden of presenting a sufficiently complete report of the proceedings at trial to support a claim or error, and in the absence of such a report in the record on appeal, it will be presumed that the order entered by the trial Court was in conformity with law and had a sufficient factual basis. Any doubts arising from the incompleteness of the record will be resolved against the Appellant. (Foutch v. Bryant (1984), 99 Ill. 2nd 389, 391-92, 459 N.E. 2nd 958.) As there is no transcript of the trial included in

the record, we have no basis for holding that the trial Court erred in entering judgment in favor of the Defendant and against the Plaintiff. Moreover, the order entered by the trial Court states that it heard the evidence and arguments of the parties, and therefore must assume that the judgment rendered was in conformity with the law and was properly supported by evidence.

For the foregoing reasons, the judgment of the Circuit Court is affirmed. Affirmed.

HARTMAN, P.J., with DEVITO and MCCORMIC,J.J., concurring.

STATE OF ILLINOIS

SUPREME COURT CLERK
November 5, 1992

Nick Retsos
5250 W. Patterson
Chicago, IL 60641

THE COURT HAS TODAY ENTERED THE FOLLOWING ORDER IN CASE OF:
No. 73981- Nick Retsos, Petitioner v. Herbert H. Victor, Respondent.

The motion for leave to file a motion for reconsideration of the order denying the petition for leave to appeal is denied.

This Court's mandate has issued to the Appellate Court, First District, this date.

JH:as
c.c. Herbert H. Victor

Number of disbarred attorneys declines as Greylord probe ends

By William Grady
Legal affairs writer

The number of attorneys disbarred or suspended by the Illinois Supreme Court declined slightly last year as the state's lawyer-disciplinary system began to wrap up proceedings initiated as a result of the federal Operation Greylord investigation into court corruption.

The state high court imposed sanctions on 100 lawyers in 1990, including 33 who were required to give up their law licenses and 46 others who were suspended from the practice of law, according to the annual report of the Attorney Registration and Disciplinary Commission. The report was released Monday.

In 1989, the court disbarred, suspended or imposed other discipline on a record 132 lawyers, including 23 who were implicated during the more than four years of Greylord-related trials in the federal courts.

Last year, only six of the disciplinary cases before the state Supreme Court were linked to the Greylord investigation, said disciplinary commission officials.

The undercover Greylord investigation resulted in the federal convictions of 15 former or sitting Cook County judges and about 70 lawyers, court staff, sheriff's deputies and police officers.

By agreement with federal authorities, disciplinary commission staff members waited to initiate attorney-disciplinary proceedings against judges and lawyers implicated in the Greylord scandal until after criminal charges were brought, trials were completed or prosecutors had made the decision not to bring charges.

More than 80 former judges or lawyers have faced state disciplinary proceedings as a result of the Greylord investigation.

The number of complaints to the disciplinary commission, the arm of the state Supreme Court that investigates allegations of attorney misconduct, jumped 11 percent last year—to 6,469 from 5,822 in 1989—according to the annual report.

The commission's three-member inquiry boards, which function somewhat like grand juries in the lawyer-disciplinary system and which last year included a non-lawyer on each panel for the first time, voted to bring formal charges in 349 cases, a slight increase over the 343 in 1989.

As is usual, most of the complaints do not result in formal charges being filed.

Last year, commission administrator John O'Malley closed the files on 6,277 complaints, either because they involved no violations of attorney rules or because an investigation by commission staff determined no further action was warranted.

Sometimes, complaints are resolved among the parties after commission staff begin an investigation.

The reasons cited most often last year in the complaints of lawyer wrongdoing filed with the commission were neglect of a case (1,394), lawyer dishonesty or fraud (804) and failure to communicate with a client (702), according to the report.

CHICAGO TRIBUNE, December 19, 1991

Legal victims fund broke, leader says

By William Grady
Legal affairs writer

After three decades of quietly reimbursing people who have been victimized by their attorneys, a special fund set up by the state's two largest lawyer groups is effectively broke.

Lawyer misdeeds have taken a toll on the not-for-profit Clients' Security Fund in recent years, and its officials decided this week to stop paying claims until new revenue can be found.

The fund had about $18,000 in the bank and claims of $71,000 that were ready to be approved for payment by its board of directors.

"The balance for all practical purposes is zero. We're broke," said Patrick W. O'Brien, a lawyer at Mayer, Brown & Platt and president of the fund's board. "This is terribly frustrating because there are hundreds and hundreds of thousands of dollars in claims brought by former clients, and we no longer have the funds to meet those claims."

Pending claims not yet approved for payment could total as much as $600,000, officials said.

The Clients' Security Fund was created in 1962 by the Illinois State Bar Association and the Chicago Bar Association as a voluntary effort to provide limited compensation to people who had been defrauded by their lawyers. The maximum paid for any loss is $10,000.

Its primary purpose has been to reimburse people whose lawyers have absconded with money

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Lawyers

Continued from page 1

owed their clients. The individual losses often are relatively small, and the money usually has been spent by the time the lawyer is caught.

The fund doesn't reimburse people who are unhappy over their legal fees.

"The Clients' Security Fund is kind of an anomaly—no other profession does this," said Thomas A. Clancy, president of the state bar association. "Nobody made us do it. But it would be tragic to let slip away something that we've had for so long."

For 20 years, the program was funded by a fee paid by members of the Chicago Bar Association and the state bar association. The annual contributions ended in 1982, when the fund appeared to be financially sound.

Since the late 1980s, leaders of the two groups have been struggling to find new ways to raise money for the fund.

The groups believe that all lawyers, not just those who are bar associa-

tion members, ought to contribute to the fund. And they think that the Illinois Supreme Court ought to put its muscle behind any request for contributions.

But in 1989, the state high court rejected a proposal to force all lawyers licensed in Illinois to pay $20 a year to the fund as part of their annual registration fee.

Last March, leaders of the fund and the bar associations asked the court to solicit contributions by providing a voluntary checkoff on the yearly fees statement sent by the Attorney Registration and Disciplinary Commission.

The court has yet to act on that request.

"Why shouldn't we be requesting every attorney to voluntarily contribute to the fund?" asked Laurel Bellows, Chicago Bar Association president. "It's part of the responsibility of the organized bar and every lawyer to step forward when someone has suffered as a result of outright theft."

Before suspending its operations, the fund had approved paying $178,172 in claims this year. Last year, the fund paid $100,603 in claims.

The fund has been hit hard in recent years because of claims filed by the victims of a few lawyers.

Since 1988, for example, there have been 152 claims brought by clients of former lawyer Edward D. Triwush, who was accused of defrauding illegal immigrants by accepting fees from them but failing to file applications for legalization under the federal amnesty program. The fund has paid more than $70,000 in claims.

Clancy said the fund proved its worth in responding to claims brought by Triwush's victims because, though the individual amounts may have been small, the losses were critical to the people from whom he was taking money.

Other states mandate that lawyers contribute to similar funds and pay larger reimbursements for individual claims.

According to a 1989 study, the maximum reimbursement in New York was $200,000 and the maximum reimbursement in California was $50,000.

"Other states are in 1991," O'Brien said. "We're about 1935 in what we do."

AMENDMENT 14th OF THE UNITED STATES CONSTITUTION

Section 1. All persons born or naturalized in the United States,and subject to the jurisdiction thereof, are citizens of the United states and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that three true and correct copies of the foregoing have been furnished by **Certified Mail** to Herbert H. Victor, 205 W. Wacker Drive, Chicago, IL 60606, on this Day of February, 1993.

NICK RETSOS, PETITIONER
5250 W. Patterson
Chicago, IL 60641

Signed and Sworn before me this 15th Day of February, 1993

OFFICIAL SEAL
Helen Megremis
Notary Public, State of Illinois
My Commission Expires 5/3/94

NOTARY PUBLIC